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PATENT
Customer Number 22,852
Attorney Docket No. 01975.0031-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PCT Application PCT/EP99/08702 of)
)
Inventors: Roelof W. FEENSTRA et al.) Group Art Unit: Unassigned
)
Application No.: 09/831,149) Examiner: Unassigned
)
National Stage Entered: May 7, 2001)
)
For: NEW PIPERAZINE AND)
PIPERIDINE COMPOUNDS)

Assistant Commissioner for Patents
Washington, DC 20231

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Sir:

RENEWED SUBMISSION UNDER 37 C.F.R. § 1.42

Applicants respectfully request that the U.S. Patent and Trademark Office ("PTO") acknowledge Applicants' Declaration filed on August 14, 2001.

In the Decision Regarding Submission Under 37 C.F.R. 1.42, mailed on December 7, 2001, the PTO objected to the Declaration under 37 C.F.R. §§ 1.42 and 1.497. Specifically, the Decision stated that identifying Mrs. Anna G. Toorop as "heiress" is not sufficient to establish that she may apply on behalf of the deceased inventor. Decision at page 2. Accordingly, Applicants submit herewith evidence showing that the Declaration should be deemed acceptable.

Applicants enclose a *Certificate of Heirship and Assignment* dated December 20, 1999, and signed and sealed by Mr. Agatha Arnoldina van Berge, Civil Law Notary practicing in Amsterdam, the Netherlands. This Certificate states that:

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Mrs. Anna Grietje Bouma is authorized and entitled to dispose of all goods forming part of the aforementioned joint estate and the inheritance included therein, the monies forming part thereof and the securities to be received, and to furnish quittance in respect of the receipt thereof.

Thus, Applicants offer that Mrs. Anna Grietje Bouma should be deemed the legal representative of the deceased inventor's estate.

Mrs. Anna Grietje Bouma is the same Mrs. Anna G. Toorop who has signed the Declaration filed on August 14, 2001. Applicants note that "Anne" on the Declaration is a typographical error and should read "Anna." See MPEP § 605.04(b). The Certificate that names Mrs. Bouma as the legal representative states: "The Testator [Dr. Toorop] was married in general community of property to [M]rs. Anna Grietje Bouma, this being the first marriage for both spouses, which marriage was dissolved due to the Testator's death." Thus, Mrs. Anna Grietje Bouma became Mrs. Anna G. Toorop upon marriage to Dr. Toorop.

The Declaration filed on August 14, 2001, complies with the requirements of 37 C.F.R. §§ 1.42 and 1.497. Rule 1.42 of 37 C.F.R. states: "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." Mrs. Toorop, the legal representative of Dr. Toorop's estate, has signed the Declaration to apply for a patent. Rule 1.497(b)(2) states:

If the person making the oath or declaration . . . is not the inventor, . . . the oath or declaration shall state the relationship of the person to the inventor, and upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

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The Declaration states that "all statements made on information and belief are believed to be true." Declaration at page 3. Moreover, at page 5, Mrs. Toorop discloses her citizenship, residence, and mailing address, and that she is the "Heiress of the deceased inventor."

The Certificate does not use the exact titles mentioned parenthetically in 37 C.F.R. § 1.42. The MPEP offers guidance in such a situation involving a foreign inventor:

The terms "Executor" and "Administrator" do not have exact counterparts in all foreign countries, and therefore, those terms must be construed to fit the circumstances of the case. Hence, the person or persons having authority corresponding to that of executor or administrator are permitted to make application as, for example, the heirs in the Federal Republic of Germany where no existing executor or administrator has been or will be appointed.

MPEP § 409.01(d). Following this guidance, the language of the Certificate should allow Mrs. Toorop to make the application on behalf of her deceased husband.

Applicants also note that Mrs. Toorop is the legal guardian of Dr. Toorop's other heirs. The Certificate reveals that three surviving children were born as a result of the marriage, and that Dr. Toorop "did not [leave] behind other statutory heirs." Moreover, "the Testator appointed as sole heirs his aforementioned spouse and his aforementioned children." If the PTO were to require the other heirs to sign the Declaration, it is likely that Mrs. Toorop would have to sign on their behalf anyway, since the children are minors aged twelve, ten, and almost seven years old. See Certificate at lines 12-17.

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CONCLUSION

Taking the entire circumstances of this case into consideration, the Declaration filed on August 14, 2001, should be deemed acceptable.

Should there be any further issues, or if the PTO requires additional information, the undersigned invites PTO personnel to contact him directly at (202) 408-4331.

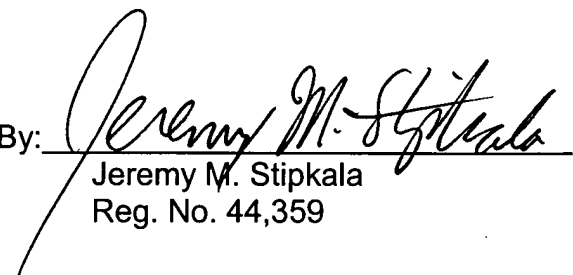
In the Decision mailed on December 7, 2001, a two-month period for response was provided. Those two months expired on February 7, 2002. Accordingly, a Petition for Extension of Time (Four Months) and fee accompany this Submission to extend the period for response to June 7, 2002. If there are any additional fees required for the entry of this Submission, please charge them to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 31, 2002

By:

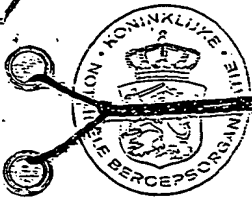

Jeremy M. Stipkala
Reg. No. 44,359

Enclosure:

Certificate of Heirship and Assignment (with translation).

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avb/me/17-12-1999/98319801



CERTIFICATE OF HEIRSHIP AND ASSIGNMENT

Mr A.A. van Berge
Mr R.J.C. van Helden
Mr M.R. Meijer
Mr J. Borren
notarissen

Keizersgracht 695-697
1017 DW Amsterdam
Telefoon 020-531 70 70
Telefax 020-627 53 08

The undersigned:_____

mr Agatha Arnoldina van Berge, "notaris" (Civil Law Notary, practising in Amsterdam, The Netherlands),_____

hereby declares as follows:_____

Mr Gerrit Paul Toorop, hereinafter referred to as "Testator", having most recently resided at Amstelveen, born in Vught at the eleventh day of November nineteenhundred fiftyfive, died on the sixteenth day of November nineteenhundred ninetyeight._____

The Testator was married in general community of property to mrs Anna Grietje Bouma, this being the first marriage for both spouses, which marriage was dissolved due to the Testator's death._____

Three surviving children were born from the aforementioned marriage:_____

1. Marcel Carel Toorop, born in Amsterdam at the nineteenth day of January nineteenhundred ninety;_____
2. Myrthe Margriet Anne Toorop, born in Amstelveen at the tenth day of June nineteenhundred ninetythree; and_____
3. Alyssa Antonia Toorop, born in Amstelveen at the twentysixth day of May nineteenhundred ninetyfive._____

The Testator did not left behind other statutory heirs ("legitimarissen")._____

The Testator disposed of his estate by last will and testament executed on the eleventh day of November nineteenhundred ninetyeight, before me, "Notaris"._____

Pursuant to this last will and testament and in connection with the relevant statutory provisions, the Testator appointed as sole heirs his aforementioned spouse and his aforementioned children. _____

The Testator furthermore effected a partition of his estate pursuant to his last will and testament and in accordance with the provisions of Section 4:1167 of the Netherlands Civil Code, whereby he assigned all assets forming part of his estate to his forementioned spouse, subject to the latter's obligation to effect settlement of the liabilities of the estate, the inheritance tax payable, the funeral costs and the estate costs and acknowledge his indebtdness to each of the children for a sum in the amount of that child's inheritance._____

In view of the above, the aforementioned Mrs Anna Grietje Bouma is authorized and entitled to dispose of all goods forming part of the aforementioned joint estate and the inheritance included therein, the monies forming part thereof and the securities to be received, and to furnish quittance in respect of the receipt thereof._____

Amsterdam, the twentieth day of Decembernineteenhundred ninetyine._____




Mr M.J. Meijer i.s. notarissen

.Mr M.J. MEIJER c.s.

NOTARISSEN

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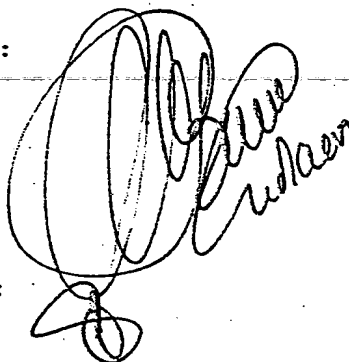
Mr Jacqueline M.J.M. Erdkamp
Mr Saskia Prins
kandidaat-notarissen

NAME : Agatha Arnoldina van Berge

PROFESSION : notaris

ADDRESS : Keizersgracht 695-697
1017 DW Amsterdam

SIGNATURE :



INITIALS :

NOTARIAL SEAL :



APOSTILLE

(Convention de La Haye du 5 octobre 1961)

Country: The Netherlands
This public document has been signed by:
Mr. A.A. van Berge
acting in the capacity of:
Notaris te Amsterdam
bears the seal/stamp of:
Mr. A.A. van Berge
certified by the Registrar of the Court in
Amsterdam, no: 20.DEC 1999*020727
Amsterdam,
Signed by: Mevr. F. El Guem





VERKLARING VAN ERFRECHT EN TOEDELING

Mr A.A. van Berge
Mr R.J.C. van Helden
Mr M.R. Meijer
Mr J. Borren
notarissen

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Ondergetekende: -----
mr Agatha Arnoldina van Berge, notaris ter standplaats
Amsterdam, -----
verklaart: -----

Op zestien november negentienhonderd achtennegentig is
overleden de heer Gerrit Paul Toorop, laatst gewoond hebbende
te Amstelveen en geboren te Vught op elf november negentien-
honderd vijftig, -----
hierna te noemen: erflater. -----

Erflater was in wederzijds eerste echt en in algehele
gemeenschap van goederen gehuwd met mevrouw Anna Grietje
Bouma, welk huwelijk door erflaters overlijden werd ontbon-
den. -----

Uit gemeld huwelijk zijn geboren en in leven drie kinderen,
te weten: -----

1. Marcel Carel Toorop, geboren op negentien januari negen-
tienhonderd negentig te Amsterdam; -----

2. Myrthe Margriet Anne Toorop, geboren op tien juni negen-
tienhonderd drieënnegentig te Amstelveen en -----

3. Alyssa Antonia Toorop, geboren op zesentwintig mei
negentienhonderd vijftien negentig te Amstelveen. -----

Erflater heeft geen andere legitimarissen achtergelaten. ---

Erflater heeft bij testament op elf november negentienhonderd
achtennegentig voor ondergetekende notaris verleden over zijn
nalatenschap beschikt. -----

Erflater heeft krachtens dit testament in verband met de
bepalingen van de wet, tot enige erfgenamen achtergelaten
zijn genoemde echtgenote en zijn genoemde kinderen, allen
voornoemd. -----

Erflater heeft voorts bij gemeld testament overeenkomstig het
bepaalde in artikel 4:1167 en volgende van het Burgerlijk

Wetboek een verdeling van zijn nalatenschap gemaakt, waarbij

hij alle tot de nalatenschap behorende baten heeft toegedeeld

aan zijn genoemde echtgenote zulks onder de verplichting voor

haar om de schulden van de nalatenschap, de verschuldigde

successierechten, de kosten van lijkbezorging en de boedel-

kosten te voldoen en aan ieder van de kinderen schuldig te

erkennen een bedrag ter grootte van zijn/haar erfdeel. -----

Mitsdien is voornoemde mevrouw Anna Grietje Bouma bevoegd en

gerechtigd over alle zaken, behorende tot voorschreven

(gemeenschappelijke boedel en de daarin begrepen) nalaten-

schap te beschikken, de daartoe behorende gelden en waarden

te ontvangen en voor de ontvangst daarvan kwijting te

verlenen. -----
Amsterdam, dertig december negentienhonderd achtennegentig.



Mr M.J. Meijer c.s. notarissen

[Handwritten signature of Mr. M.J. Meijer]